

LINK:

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No.	CV 17-01405 BRO (JEMx)	Date	March 3, 2017
Title	CARMEN HERRERA V. BMW OF NORTH AMERICA, LLC ET AL.		

Present: The Honorable	BEVERLY REID O’CONNELL, United States District Judge		
Renee A. Fisher	Not Present		N/A
Deputy Clerk	Court Reporter		Tape No.
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
Not Present		Not Present	

Proceedings: (IN CHAMBERS)

ORDER TO SHOW CAUSE RE SUBJECT MATTER JURISDICTION

Plaintiff Carmen Herrera (“Plaintiff”) brought this action in the Superior Court of California, County of Los Angeles, on January 5, 2017. (*See* Dkt. No. 1-2 (hereinafter, “Compl.”).) Defendant BMW of North America, LLC (“Defendant”) removed the action to this Court on February 21, 2017, invoking this Court’s diversity jurisdiction pursuant to 28 U.S.C. § 1332. (*See* Dkt. No. 1 (hereinafter, “Removal”).)

Pursuant to 28 U.S.C. § 1446(b), a removal must generally be filed within thirty days of receiving a copy of the complaint. *See* 28 U.S.C. § 1446(b). Defendant was first served with a copy of the Complaint in this case on January 16, 2017. (Removal ¶ 3.) Therefore, under § 1446(b), any notice of removal should have been filed no later than February 15, 2017, making Defendant’s removal untimely. Defendant contends that it was not until February 17, 2017, when it received a copy of Plaintiff’s lease agreement that it “could first be ascertained that the case is one which is removable.” (Removal ¶ 5); *see also* 28 U.S.C. § 1446(b)(3) (allowing for removal “within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable”). However, Defendant fails to explain why this is the case. Rather, Defendant explains that Plaintiff’s Complaint indicates that she is a California citizen, (*see* Removal ¶ 12; Compl. ¶ 1), and that, based on the Complaint’s Prayer for Relief, the amount in controversy exceeds \$75,000, (*see* Removal ¶ 15). Therefore, it is unclear to the Court why it could not be ascertained that this case was removable when Defendant first received Plaintiff’s Complaint.

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Accordingly, Defendant is **ORDERED TO SHOW CAUSE** as to why this case should not be remanded to the Superior Court based on Defendant's untimely removal. Defendants shall file their response to this Order **no later than Friday, March 17, 2017, at 4:00 p.m.**

IT IS SO ORDERED.

Initials of Preparer

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